

REMARKS

Claims 57, 59-80 and 82-102 are presently pending in the case.

Appeal Decision

In the Decision on Appeal dated August 8, 2011, all appealed rejections were reversed. The only outstanding rejections are the Double Patenting Rejections addressed below.

Consideration of Response

Appellant requests post-Appeal review of the present response under 37 CFR § 1.197. In accordance with MPEP § 1214.06(III), the Board's affirmance-in-part brings up the double patenting rejections for action on the merits. Thus, Appellant submits herewith a terminal disclaimer to obviate the rejection, as discussed below. Consideration is requested.

Claim rejections under judicially created doctrine of Double Patenting

The Examiner provisionally rejected claims 57, 59-80 and 82-102 under the judicially created doctrine of double patenting as being unpatentable over the claims of U.S. Patent Applications 09/851,226; 09/568,818; 10/750,934; and 10/982,191.

Applicant asserts that the presently claimed subject matter is not obvious over the reference claims. However, solely in order to expedite prosecution of the present case, Applicant submits herewith a terminal disclaimer in compliance with 37 CFR 1.321(c) in accordance with the Examiner's suggestion. It is requested that the double patenting rejection based on U.S Patent 7,442,388 (09/851,226) and U.S. Patent 7,871,598 (09/568,818) be removed in view of this disclaimer.

Applications 10/750,934 and 10/982,191 have been abandoned and the double patenting rejections based thereon are believed to be moot.

Conclusion

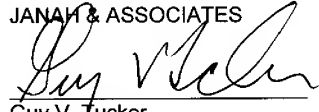
The claims are allowable for the reasons given above. Thus, the Examiner is respectfully requested to reconsider the present rejections and allow the presently pending claims. Should the Examiner have any questions, the Examiner is requested to telephone the undersigned at (415) 538-1555

Respectfully submitted,

JANAH & ASSOCIATES

Dated: September 30, 2011

By:


Guy V. Tucker
Reg. No. 45,302

Please continue to send all correspondence to:

NOVARTIS
Corporate Intellectual Property
One Health Plaza 101/2
East Hanover, NJ 07936-1080